

CONTRACTS

UAC Management Conference
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CONTRACT BASICS

- Offer
- Acceptance
- Consideration
- Meeting of the minds
- Definite terms

CONSIDERATION

MEETING OF THE MINDS

DEFINITE TERMS

EXPRESS VS. IMPLIED

CONTRACT PARTS

- Introduction
- Recitals
- Material Clauses
- Boilerplate
- Signatures
- Attachments

SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT ("**Agreement**") is entered into by and among JORDANELLE SPECIAL SERVICE DISTRICT, a body corporate and politic and JORDANELLE SPECIAL SERVICE DISTRICT SPECIAL IMPROVEMENT DISTRICT NO. 2005-2 (collectively, "**JSSD**"), WASATCH COUNTY, a political subdivision of the State of Utah ("**County**"), USAA MUTUAL FUNDS TRUST, a Delaware statutory trust, on behalf of its series the USAA TAX-EXEMPT INTERMEDIATE TERM FUND (Fund 6206) ("**USAA MFT**"), WELLS FARGO & CO., a Delaware corporation ("**Wells**"), KOCH FINANCIAL CORPORATION, nka KOCH FINANCIAL COMPANY, LLC, a Kansas limited liability company ("**Koch**") (USAA MFT, Wells, and Koch are collectively referred to herein as "**Bondholders**"), with UMB BANK, N.A., a national banking association, as trustee for the Bondholders ("**Trustee**") consenting to this Agreement. JSSD, County, and Bondholders are sometimes referred to individually as a "**Party**" and collectively as the "**Parties**."

RECITALS

A. On October 19, 2005, the Wasatch County Council, acting as the governing authority of JSSD, passed Resolution No. 2005-18 adopting a Notice of Intention to create Jordanelle Special Service District Special Improvement District No. 2005-2 and to establish an assessment area south of the Jordanelle Reservoir ("**Assessment Area**") for the purpose of issuing bonds to finance the acquisition, construction and installation costs of improvements to benefit certain properties within the Assessment Area.

B. The six properties to be assessed within the Assessment Area were referred to as (a) Victory Ranch, (b) the Aspens, also known as "Talisman," (c) J.R. Christensen, also known as "The Highlands at Jordanelle," (d) Mower, (e) Cummings, also known as "Jackson Fork," and (f) Sorenson (collectively, the "**Assessed Properties**"). The Assessed Properties are located within Wasatch County and within JSSD's service area.

C. On February 15, 2006, the Wasatch County Council, acting as JSSD's governing body, adopted Resolution 2006-04, which created the Assessment Area and approved the list of Assessed Properties.

D. On June 23, 2009, JSSD issued a Notice of Proposed Assessment ("**Notice of Proposed Assessment**") on all property owners within the Jordanelle Special Service Improvement District No. 2005-2.

E. On July 8, 2009, JSSD adopted Ordinance 09-10 ("**Assessment Ordinance**") to levy assessments on the Assessed Properties located within the Assessment Area sufficient to pay debt service on assessment bonds. The Assessment Ordinance took effect on July 15, 2009.

F. Each of the Assessed Properties had a lien recorded against it to secure the assessments for a particular parcel of assessed property.

G. JSSD entered into the Indenture dated August 1, 2009 to authorize the sale of the assessment bonds.

H. On August 12, 2009, JSSD adopted Resolution 2009-11, which authorized the issuance of the Jordanelle Special Service District, Utah, Special Assessment Bonds, Series 2009A, Series 2009B,

RECITALS

MATERIAL CLAUSES

BOILERPLATE

SIGNATURES

ATTACHMENTS

SPECIFIC ISSUES

- Remedies
- Governmental immunity
- Statutes of limitations
- Settlements
- Legal review

CONTRACT DRAFTING

- Not a do-it-yourself project
- Get legal assistance
- But not an exercise in legalese
- Essentially the terms you agreed to

CONTRACT DRAFTING

- Determine what you are trying to do
- Follow a form to address all issues
- Be clear
- Circulate to all parties to get readers' comments
- Get legal review

CONTRACT TRAPS

- State jurisdiction
- Venue
- State law
- Indemnification
- Damage limitation
- Wrong party

MANDATORY ATTORNEY DISCLAIMER

The sample documents provided for this presentation are for discussion purposes only. They should not be used in any official capacity without the review and approval of your county attorney.

INDEMNIFICATION AND HOLD HARMLESS CLAUSES

WAIVER LANGUAGE

- Semantics is important in waivers
- Indemnify = reimburse
- Hold Harmless = pay on behalf of
- HH: We want them to pay and defend us
- Also release, waive and assume risks

HOLD HARMLESS LANGUAGE

- Defend and indemnify
- Costs paid as incurred
- Full extent permitted by law
- Any and all claim, suits, etc.
- Covers acts and omissions
- Only exception is our negligence or intentional acts

MUTUAL INDEMNIFICATION

- Avoid if possible, but difficult for government
- If necessary, make them equal
- Both parties liable for and indemnify own acts
- Careful of “sole negligence” limitation clause

7. Severability

If any provision of this Agreement is held to be unenforceable, then such provision shall be modified to reflect the parties' intention. All remaining provisions of this Agreement shall remain in full force and effect.

8. Non-Waiver

The failure of one party to require performance of any provision of this Agreement shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

9. Merger and Integration

This Agreement and any exhibits attached hereto contain the entire agreement of the parties with respect to the subject matter of this Agreement, and supersede all prior negotiations, agreements and understandings with respect thereto. This Agreement may only be amended by a written document duly executed by all parties.

10. Indemnification

~~The Advertiser agrees to indemnify and hold harmless Fisher's ATV World, LTD and/or Brian Fisher personally, for any loss or expense by reason of liability or potential liability of Fisher's ATV World, LTD or Brian Fisher personally arising out of any claim for damages beyond damages under contract theory, such as tort claims which may arise from or out of this Agreement.~~

11. Impracticability of Performance

If Fisher's ATV World, LTD becomes unable to perform under this Agreement due to an objectively impracticable reason such as a serious illness, serious injury, or death, Fisher's ATV World, LTD will refund any payment(s) made to Fisher's ATV World, LTD, with the exception that Fisher's ATV World, LTD will be entitled to payment for the substantial performance of any aspect of this Agreement including but not limited to: media, web, and paper advertisement. Should litigation arise based upon this Agreement with respect to Fisher's ATV World, LTD's inability to perform, Fisher's ATV World, LTD will be entitled to damages for substantial performance under this Agreement including but not limited to: damages in quantum meruit.

12. Rights/Ownership

Fisher's ATV World, LTD shall retain ownership rights to all show materials such as but not limited to: talent, music, production, and products. Permission from Fisher's ATV World, LTD shall be required for any and all duplication or replication of any part or whole of the show and/or promotional projects of Fisher's ATV World.

FISHER'S ATV WORLD, LTD.

By: 
Brian K. Fisher
Executive Producer

Date: 2/12/16
By: 
Melissa S. Fisher
Executive Producer

Utah's Trail Country - for Sevier County

By: _____
Advertiser

Title

Date

The subscriber shall pay to Contractor the Annual sum of as per above Dollars. If the Subscriber fails to pay the full amount due, Contractor, may at its option, terminate this contract, and, in any event, will not be obligated to perform any additional work until payment of the amount past due has been received by contractor.

Report of Inspection

Notice of this agreement and copies of all Reports of Inspection and test will be forwarded by the Contractor to _____, the insurance authority having jurisdiction and to the subscriber. Notice of termination or change in number of inspections per year by the Contractor shall be given to same.

LIMITATION OF LIABILITY - See attached sheet of Sevier County Standard Terms and Conditions.

~~The Contractor makes NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE. Any promise or affirmation of fact made by any employee, agent or representative of the Contractor, that is not contained herein, shall not in any form constitute a warranty by the Contractor or give rise to any liability or obligation. Contractor's liability to Subscriber for personal injury, death, or property damage arising from performance under this contract shall be limited to the contract price. Subscriber shall hold Contractor harmless from any and all third party claims for personal injury, death or property damage, arising from Subscriber's failure to maintain these systems or keep them in operative condition, whether based upon contract, warranty, tort, strict liability or otherwise. In no event shall the Contractor be liable for any special, indirect, incidental, consequential or liquidated, penal or any economic loss damages of any character, including but not limited to loss of use of the Subscriber's property, lost profits or lost production, whether claimed by the Subscriber or by any third party, in respect of whether claims or actions for such damages are based upon contract, warranty, negligence, tort, strict liability or otherwise.~~

~~This Contract is subject to the attached sheet of Sevier County Standard Terms and Conditions.~~

CERTIFIED FIRE PROTECTION

By: Clint Price

Title: Sales/Project Manager

Date Signed: 5/4/2016

ACCEPTED BY:
SUBSCRIBER

By:

Title:

Date Signed:

TERMS AND CONDITIONS

REPORTS

The inspection and/or test shall be completed on the Contractor's, then current, Report form. The Report shall be given to the Subscriber, with a copy forwarded to all those listed on Attachment "A". The report and recommendations by the Contractor are only advisory in nature and are intended to assist Subscriber in reducing the possibility of loss of property by indicating obvious defects or impairment noted to the system and equipment inspected and/or tested which required prompt consideration. Reports are not intended to imply that all other defects, hazards or aspects of the system and equipment are under control at the time of inspection. Final responsibility for the condition and operation of the sprinkler and/or fire alarm and detection system equipment is held by the Subscriber as noted in NFPA 72, 7-1.2 and NFPA 25, 1-4.2.

FIRE ALARM AND DETECTION SYSTEMS

In the event that the subscriber elects to have the fire alarm and detection system tested, it is understood that a random sampling of detection devices will be tested during each visit so that the entire system will have been tested at the end of each contract year. Prior to any tests, all persons who would automatically receive an alarm shall be notified, so that an unnecessary response shall not take place. Schematics and/or wiring diagrams must be provided by the contract subscriber.

EMERGENCY SERVICE

Emergency service requested by the Subscriber will be furnished at an additional cost.

ADDITIONAL EQUIPMENT

In the event additional equipment is installed after the date of this contract, the annual inspection charge shall be increased in accordance with the contractor's prevailing rates as of the first inspection of such additional equipment.

WORK NOT INCLUDED

The inspection and testing provided under this agreement does not include any maintenance, repairs, alterations, replacement of parts or any field adjustments whatsoever. Should any such work be requested by Subscriber they will be as an addition to this Agreement. The contractor shall furnish the Subscriber with an estimated price before the additional work is performed.

Article IX - INDEMNIFICATION

9.1 Licensors, at its own expense, will defend, indemnify and hold Licensee, its officers, directors, agents and employees, harmless from and against any and all costs, expenses, and losses (including reasonable attorneys' fees) incurred by and/or awarded against Licensee from any and all claims of third parties against Licensee based on a breach by Licensors of any representation and/or warranty made in this Agreement including, but not limited to, claims alleging infringement; provided, however, that Licensors is given notice of any such claims or proceedings within thirty (30) days after Licensee first receives notice of such claim or proceeding and provided Licensors is given control over the defense of such claim or proceeding, including negotiations, appeals and settlements. Licensee agrees to provide reasonable information and assistance to Licensors, at Licensors's expense.

9.2 If the Software is held to infringe, or in Licensors's opinion is likely to be held to infringe, any third party intellectual property right, Licensors may at its sole option and expense:

- (a) secure the right for Licensee to continue use of the Software;
- (b) replace, modify or amend the Software or infringing part of it so that the same becomes non-infringing; or
- (c) repay to Licensee the license fee for the Software.

9.3 Licensors shall have no responsibility to indemnify Licensee from infringement claims if:

- (d) Such claims arise from unauthorized modification of the Software by Licensee without Licensors's approval;
- (e) Such claims arise from Licensee's use of the Software in violation of this Agreement;
- (f) Such claims arise from use of the Software if Licensors has made available to Licensee Updates to the Software that would have nullified any claims of infringement;
- (g) Licensee has done, permitted or allowed to be done anything which results in such claim of infringement of any rights in any copyright, patent, trade mark or other intellectual property rights,;
- (h) Licensee has not exercised a reasonable standard of care in protecting the same; and
- (i) Such claims arise as a result of work done in accordance with the Customer's specifications where such specifications gave rise to the alleged infringement of any copyright, patent, trademark, industrial design or other intellectual property right.

Article X - LIMITATION OF LIABILITY

10.1 WHATEVER THE CAUSE, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOOD WILL, LOSS OF BUSINESS, LOSS OF REVENUE, LOSS OF

ANTICIPATED SAVINGS, WORK STOPPAGE, DATA LOSS, ECONOMIC DAMAGE, LOST PROFIT OR COMPUTER FAILURE WHICH MAY ARISE IN RESPECT OF THE SOFTWARE, THE HARDWARE ON WHICH IT IS INSTALLED OR IN RESPECT OF OTHER EQUIPMENT OR PROPERTY.

10.2 ~~Except as expressly provided herein, the Licensors shall not be liable to Licensee for any loss or damage whatsoever or howsoever caused arising directly or indirectly in connection with this Agreement, the Software, the Installation Services, or the Maintenance Services or otherwise, except to the extent to which it is unlawful to exclude such liability under the applicable law.~~

10.3 ~~Notwithstanding the generality of the provisions set out within this Article X, the Licensors expressly excludes liability for errors in any data information, reports, or results in any form that is produced by the Software.~~

10.4 Notwithstanding any other provision of this Agreement, the Licensors does not exclude liability for death or personal injury to the extent only that the same arises as a result of the negligence of the Licensors, its employees, agents, or authorized representatives.

10.5 ~~In the event that any exclusion contained in this Agreement shall be held to be invalid or unenforceable for any reason and the Licensors becomes liable for loss or damage that may lawfully be limited, such liability shall be limited to amount paid by Licensee for the Licensee.~~

Article XI - NON-COMPETITION

Licensee agrees that until the Maintenance Services Termination, and for a period of four (4) years thereafter, that it and its affiliates and subsidiaries will not engage, in the manufacture, supply, marketing, sale, or distribution of any software similar to the Software in any manner whatsoever.

Article XII - MISCELLANEOUS

12.1 Any notice required to be given pursuant to this Agreement shall be in writing, addressed to the parties at their addresses set forth above, and mailed by certified or registered mail, return receipt requested, or delivered by a national overnight express service. Either party may change the address to which notice is to be sent by written notice to the other party pursuant to the provisions of this paragraph.

12.2 This Agreement shall be governed by the laws of ~~Arkansas~~ ^{Utah}, without regard to conflicts of law principles. All disputes hereunder shall be resolved in the applicable state or federal courts of ~~Arkansas~~ ^{Utah}. The parties consent to the jurisdiction of such courts, agree to accept service of process by mail, and waive any jurisdictional or venue defenses otherwise available.

12.3 This Agreement shall be binding on and shall inure to the benefit of the parties hereto, and their heirs, administrators, successors, and assigns.

12.4 If any provision of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or operation of any other provision and such invalid provision shall be deemed to be severed from the Agreement. Failure or delay by either party in exercising any right or power hereunder shall not operate as a waiver of such right or power. Each party agrees it will perform its obligations hereunder in accordance with all applicable laws, rules and regulations now or

rules and regulations (state, federal, municipal or promulgated by other agencies or bodies having or claiming jurisdiction) applicable to the performance of such party's obligations to Host County.

e. Exculpation Clause. Every party contracting with or providing goods or services to Host County in connection with the Host County Stage or the Tour and/or ancillary events related thereto must agree to look ~~solely~~ to the assets of ~~Host County for~~ any recourse, and not those of TOU or any other of the TOU Parties (as defined in Section 8c above). *for any recourse.*

f. Insurance. Every party contracting with or providing goods or services to Host County in connection with the Host County Stage or the Tour and/or ancillary events related thereto must agree to maintain, at no cost to TOU or the TOU Parties, appropriate insurance coverage for Claims arising out of the contracting party's operations, personnel, products and services. All such insurance provided by each contracting party shall (1) be primary to and non-contributory with any insurance maintained by Host County, TOU and the TOU Parties; (2) be written by insurance companies with ratings of "A" or better in the latest edition of the A.M. Best key rating guide; and (3) provide that coverage may not be materially changed, reduced or cancelled unless thirty (30) days prior written notice thereof is furnished to Host County and TOU. All liability policies shall be endorsed to name Host County, TOU, Medalist and the TOU Parties as Additional Insureds, and shall include a waiver of subrogation in favor of the Additional Insureds. Each contracting party shall be solely responsible for the costs of all deductibles under such policies and shall remain solely and fully liable for the full amount of any Claims not covered by insurance. Each contracting party shall provide Host County and TOU with certificates of insurance certifying that the appropriate insurance, as described in Section 20c below, is in place and that the policies have been properly endorsed to meet the insurance requirements.

9. Licenses to Use Marks.

a. Tour Marks.

(1) Acknowledgements Regarding Tour Marks. Host County acknowledges TOU retains the rights to sell title and presenting sponsorships in and to the Tour and, in such event, to incorporate the name and/or marks of such title and/or presenting sponsor into the Tour Marks or to develop new marks and logos for the Tour, acknowledging such title and/or presenting sponsor's relationship with and support for the Tour. Host County acknowledges the foregoing and that the term "Tour Marks" as used herein may also refer to the Tour Marks as such may be expanded to include the name and/or marks of a title and/or presenting sponsor of the Tour. Upon being advised by TOU of a change to the Tour Marks in the event of a sale of title or presenting sponsorships, Host County agrees to utilize the updated Tour Marks with the name and/or marks of a title and/or presenting sponsor, all as designated by TOU.

(2) License to Use Tour Marks. TOU hereby grants to Host County a limited non-exclusive license to use the name, logos, trademarks, service marks, designs, product and service identification, artwork and other symbols and distinctive indicia

12. Default and Termination. If either party defaults in the performance of any obligation under this Agreement, then the non-defaulting party shall give the defaulting party written notice of its default setting forth with specificity the nature of the default. If the defaulting party fails to cure its default within thirty (30) days after receipt of the notice of default, then the non-defaulting party shall have the right to terminate this Agreement upon thirty (30) days written notice and pursue all other remedies available to the non-defaulting party, either at law or in equity. Notwithstanding the foregoing, the thirty (30) day cure period shall be extended to ninety (90) days if the default is not reasonably susceptible to cure within such thirty (30) day period, but only if the defaulting party has begun to cure the default during the thirty (30) day period and diligently pursues the cure of such default. Notwithstanding the foregoing, if you breach your obligations in the section entitled "Software License" or the section entitled "Confidentiality", then we shall have the right to terminate this Agreement immediately.

13. Limitation of Liability. ~~NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, NEITHER PARTY SHALL HAVE ANY LIABILITY FOR INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF PROFITS OR INCOME, LOST OR CORRUPTED DATA, OR LOSS OF USE OR OTHER BENEFITS, HOWSOEVER CAUSED AND EVEN IF DUE TO THE PARTY'S NEGLIGENCE, BREACH OF CONTRACT, OR OTHER FAULT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. OUR AGGREGATE LIABILITY TO YOU RELATING TO OR ARISING OUT OF THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, SHALL NOT EXCEED THE AMOUNT WE PAID YOU DURING THE TWELVE (12) MONTH PERIOD BEFORE THE DATE THE CLAIM AROSE.~~

14. Uncontrollable Circumstance. We reserve the right to ~~renegotiate or~~ terminate this Agreement upon sixty (60) days advance written notice if circumstances outside our control related to the Facilities (including, without limitation, changes in rates, regulations, or operations mandated by law; material reduction in inmate population or capacity; material changes in jail policy or economic conditions; acts of God; actions you take for security reasons (such as lock-downs)) negatively impact our business; however, we shall not unreasonably exercise such right. Further, Customer acknowledges that Provider's provision of the services is subject to certain federal, state or local regulatory requirements and restrictions which are subject to change from time-to-time and nothing contained herein to the contrary shall restrict Provider from taking any steps necessary to perform in compliance therewith.

15. Injunctive Relief. Both parties agree that a breach of any of the obligations set forth in the sections entitled "Software License," "Ownership and Use," and "Confidentiality" would irreparably damage and create undue hardships for the other party. Therefore, the non-breaching party shall be entitled to immediate court ordered injunctive relief to stop any apparent breach of such sections, such remedy being in addition to any other remedies available to such non-breaching party.

16. Force Majeure. Either party may be excused from performance under this Agreement to the extent that performance is prevented by any act of God, war, civil disturbance, terrorism, strikes, supply or market, failure of a third party's performance, failure, fluctuation or non-availability of electrical power, heat, light, air conditioning or telecommunications equipment, other equipment failure or similar event beyond its reasonable control; provided, however that the affected party shall use reasonable efforts to remove such causes of non-performance.

17. Notices. Any notice or demand made by either party under the terms of this Agreement or under any statute shall be in writing and shall be given by personal delivery; registered or certified U.S. mail, postage prepaid; or commercial courier delivery service, to the address below the party's signature below, or to such other address as a party may designate by written notice in compliance with this section. Notices shall be deemed delivered as follows: personal delivery - upon receipt; U.S. mail - five days after deposit; and courier - when delivered as shown by courier records.

18. No Third-party Beneficiary Rights. The parties do not intend to create in any other individual or entity the status of a third-party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties, and obligations contained herein shall operate only between the parties and shall inure solely to their benefit. The provisions of this Agreement are intended to assist only the parties in determining and performing their obligations hereunder, and the parties intend and expressly agree that they alone shall have any legal or equitable right to seek to enforce this Agreement, to seek any remedy arising out of a party's performance or failure to perform any term or condition of this Agreement, or to bring an action for the breach of this Agreement.

19. Miscellaneous. This Agreement shall be governed by and construed in accordance with the laws of the State of Utah. No waiver by either party of any event of default under this Agreement shall operate as a waiver of any subsequent default under the terms of this Agreement. If any provision of this Agreement is held to be invalid or unenforceable, the validity or enforceability of the other provisions shall remain unaffected. This Agreement shall be binding upon and inure to the benefit of Provider and Customer and their respective successors and permitted assigns. Except for assignments to our affiliates or to any entity that succeeds to our business in connection with a merger or acquisition, neither party may assign this Agreement without the prior written consent of the other party. Each signatory to this Agreement warrants and represents that he or she has the unrestricted right and requisite authority to enter into and execute this Agreement, to bind his or her respective party, and to authorize the installation and operation of the System. Provider and Customer each shall comply, at its own expense, with all applicable laws and regulations in the performance of their respective obligations under this Agreement and otherwise in their operations. Nothing in this Agreement shall be deemed or construed by the parties or any other entity to create an agency, partnership, or joint venture between Customer and Provider. This Agreement cannot be modified orally and can only be modified by a written instrument signed by all parties. The parties' rights and obligations, which by their nature would extend beyond the termination, cancellation, or expiration of this Agreement, shall survive such

(b) If a Receiving Party is required to disclose Confidential Information of the other party pursuant to an order from a court of competent jurisdiction or governmental agency with appropriate legal authority, the Receiving Party shall (i) provide the disclosing party with prior notice of such compelled disclosure, (ii) provide reasonable assistance, at the disclosing party's cost and expense, in the disclosing party's efforts to contest the disclosure, and (iii) disclose only those portions of the Confidential Information as are necessary to comply with the order.

(c) Upon request of the other party, each Receiving Party shall return to the other or destroy all materials, in any medium, which contain or reveal all or any part of any Confidential Information of the other party.

7. DISCLAIMER: LIMITATIONS OF LIABILITY.

X EACH ORDERED PRODUCT/SERVICE AND ALL TMG PROPRIETARY MATERIALS ARE PROVIDED ON AN "AS IS" BASIS. EXCEPT FOR EXPRESS WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT, IF ANY, TMG DOES NOT MAKE ANY REPRESENTATION OR WARRANTY, EXPRESS, ORAL, IMPLIED OR STATUTORY, WITH RESPECT TO ANY ORDERED PRODUCT/SERVICE OR ANY TMG PROPRIETARY MATERIAL, OR ANY THIRD-PARTY PRODUCTS, AND TMG HEREBY SPECIFICALLY DISCLAIMS ALL WARRANTIES, EXPRESS AND IMPLIED, WITH RESPECT TO THE ORDERED PRODUCT/SERVICES. THE OTHER TMG PROPRIETARY MATERIALS AND ANY THIRD-PARTY PRODUCTS, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF QUALITY, ACCURACY, COMPLETENESS, PERFORMANCE, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE. WITHOUT LIMITING ANYTHING IN THE FOREGOING, (i) TMG DOES NOT MAKE ANY REPRESENTATION OR WARRANTY THAT THE ORDERED PRODUCT/SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE OR WILL FULFILL ANY PARTICULAR NEEDS OR PURPOSES; (ii) TMG DOES NOT PROVIDE ANY WARRANTY AGAINST INFRINGEMENT OR INTERFERENCE WITH INTELLECTUAL PROPERTY RIGHTS; (iii) CLIENT ACKNOWLEDGES THAT THE OPERATION, USE OR PERFORMANCE OF THE ORDERED PRODUCT/SERVICES ENTAILS THE RISK OF LOSS OF DATA OR DAMAGE TO MEDIA, WHICH MAY GIVE RISE TO LOSS OR DAMAGE, AND CLIENT AGREES THAT TMG SHALL NOT BE LIABLE IN ANY EVENT FOR ACCOUNT OF ANY SUCH ERRORS, OMISSIONS, DELAYS, OR LOSSES; (iv) CLIENT ACKNOWLEDGES AND AGREES THAT NO STATEMENTS MADE IN ANY ADVERTISING MATERIALS OR ANY OTHER DOCUMENTATION (OTHER THAN STATEMENTS EXPRESSLY SET FORTH IN THIS AGREEMENT) HAVE FORMED A PART OF THE PARTIES' AGREEMENT OR UNDERSTANDING, AND CLIENT IS NOT ENTITLED TO RELY ON SUCH STATEMENTS IN ADVERTISING OR OTHER DOCUMENTATION.

(b) IN ADDITION TO AND NOT IN LIMITATION OF ANY OTHER LIMITATION OF LIABILITY HEREUNDER, CLIENT ACKNOWLEDGES AND AGREES THAT (i) TMG SHALL NOT BE LIABLE TO CLIENT OR ANY OTHER PERSON FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, EXEMPLARY OR OTHER SIMILAR DAMAGES OF ANY KIND OR NATURE WHATSOEVER ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY ORDERED PRODUCT/SERVICE OR ANY TMG PROPRIETARY MATERIAL, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES (WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, TMG SHALL NOT BE LIABLE FOR ANY LOST PROFITS OR REVENUE, INCLUDING, BUT NOT LIMITED TO, ANY SUCH LOSSES INCURRED AS A RESULT OF LOSS OF USE OF ANY ORDERED PRODUCT/SERVICE OR ANY TMG PROPRIETARY MATERIAL, LOSS OR DISCLOSURE OF DATA (HOWEVER CAUSED), BUSINESS INTERRUPTION, COST OF RECOVERING SOFTWARE OR DATA OR OTHER SIMILAR COSTS); AND (ii) TMG SHALL NOT BE RESPONSIBLE FOR ANY DAMAGES INCURRED BY CLIENT OR ANY OTHER PERSON AS A RESULT OF THE OPERATION, USE OR PERFORMANCE OF THE ORDERED PRODUCT/SERVICES, INCLUDING, BUT NOT LIMITED TO, ANY SUCH LOSSES INCURRED AS A RESULT OF LOSS OF USE OF ANY ORDERED PRODUCT/SERVICE OR ANY TMG PROPRIETARY MATERIAL, LOSS OR DISCLOSURE OF DATA (HOWEVER CAUSED), BUSINESS INTERRUPTION, COST OF RECOVERING SOFTWARE OR DATA OR OTHER SIMILAR COSTS.

(c) IF TMG IS NOT APPLICABLE TO HANDLE THE HOSTING OF DOMAIN-NAMED SERVICE ("DNS") FILES OR DOMAIN NAMES RELATING TO THE CLIENT WEBSITE(S) THAT CONSTITUTE ORDERED PRODUCT/SERVICES HEREUNDER, THEN TMG SHALL NOT BE RESPONSIBLE FOR ANY ISSUES THAT MAY RESULT FROM OR RELATE TO THE HOSTING, INCLUDING DOMAIN DOWNTIME.

8. INDEMNIFICATION.

(a) Client assumes sole responsibility for all use of the Ordered Product/Services, the TMG Proprietary Materials and all Third-Party Products. Furthermore, Client shall indemnify, defend and hold harmless TMG and its affiliates, and its and their respective officers, directors, employees, agents and representatives (collectively, the "Indemnified TMG Parties"), from and against any and all claims, proceedings and demands asserted or alleged by third parties against an Indemnified TMG Party ("Claim"), and from and against any damages, costs, expenses and liabilities of any kind whatsoever (including, without limitation, reasonable attorneys' fees and costs) incurred in connection with any such Claim, arising out of or in any way related to (i) Client's use of any of the Ordered Product/Services, (ii) any breach by Client of any representations, warranties, covenants or other terms and conditions set forth in this Agreement, (iii) Client's violation of or failure to comply with any applicable law, rule or regulation, or (iv) any allegation that any Client Content, whether as displayed on any website, product or otherwise, (A) infringes (directly or in a contributory manner), violates or misappropriates any copyright, patent, trademark or service mark or any other intellectual property right of a third party, (B) violates any right of publicity or privacy of any third party or (C) constitutes unlawful use, disclosure or misappropriation of a third party's trade secret or otherwise constitutes unlawful use of confidential information.

apply to the negligence of or by the Indemnified TMG Parties.
(b) In the event that use of the Ordered Product/Services (including any Client Content displayed thereon) or other TMG Proprietary Materials becomes, or in TMG's sole discretion is likely to become, the subject of any Claim of infringement by any third party, then TMG may at its option and expense either (i) use commercially reasonable efforts to procure for Client the right to continue to use the applicable Ordered Product(s)/Service(s) or TMG Proprietary Materials as provided in this Agreement, or (ii) use commercially reasonable efforts to replace or modify the applicable Ordered Product(s)/Service(s) or TMG Proprietary Materials with a version that is non-infringing but that performs substantially similar functions. In the event that neither of the foregoing options is commercially viable in the sole judgment of TMG, then TMG may cancel its provision to Client of the applicable Ordered Product(s)/Service(s) or TMG Proprietary Materials and refund to Client any Fees pre-paid by Client with respect thereto.

9. TERM AND TERMINATION.

(a) This Agreement shall commence on the date that the Initial Advertising Agreement is signed by an authorized Manager of TMG and shall remain in effect until terminated in accordance with this Agreement (the period that this Agreement is so in effect, the "Term").

(b) Each Advertising Agreement specifies an initial term/initial period (defined above as the Contract Period) for each Ordered Product/Service. After the initial Contract Period for any Ordered Product/Service expires, the Contract Period for such Ordered Product/Service shall, except as provided below, automatically renew for successive terms that are equal in length to the initial Contract Period, unless a party gives the other party written notice of its intent not to renew this Agreement for the applicable Ordered Product/Service not less than (i) ninety (90) days prior to the applicable renewal date, with respect to Ordered Product/Services that consist of print advertising services, or (ii) sixty (60) days prior to the applicable renewal date, with respect to all other Ordered Product/Services, in which case this Agreement shall terminate effective as of the last day of the calendar month following the expiration of the applicable notice period (for instance, if notice of non-renewal for Ordered Product/Services consisting of print advertising services is delivered on March 24, the effective date of termination would be June 30).

(c) The cancellation of one Contract Period shall not, in and of itself, cause the cancellation of any other Contract Period unless the cancellation is effected as a result of a breach and the non-breaching party expressly elects, in its sole discretion, to exercise its termination right under Section 9(c). This Agreement shall automatically terminate if for a period of ninety (90) consecutive days there is no Contract Period in effect for the provision of any Ordered Product/Service (e.g., all renewals have been cancelled).

(d) Client, on the one hand, or TMG, on the other hand, may terminate this Agreement at any time by written notice to the other party if (i) the other party materially breaches this Agreement and the breach remains uncured for a period of thirty (30) days after notice of breach from the non-breaching party, or (ii) the other party ceases to do business in the normal course, a petition for relief under any bankruptcy legislation is filed by or against the other party, the other party makes an assignment for the benefit of creditors, or a receiver is appointed for all or substantially all of the other party's assets. In addition to and not in limitation of the foregoing, TMG may terminate this Agreement (including any and all active Advertising Agreements) immediately upon written notice to Client in the event that Client, or any of its employees, agents or other representatives, engages in any conduct that TMG in its reasonable discretion deems offensive, inappropriate or otherwise inconsistent with TMG's standards of conduct, including, but not limited to, use of abusive, insulting or derogatory language with any TMG personnel.

defenses provided by the Act. Nor shall this Contract be construed, with respect to third parties, as a waiver of any governmental immunity to which a party to this Contract is otherwise entitled. Subject to and consistent with the Act, each party will be responsible for its own actions or negligence and will defend against any claims or lawsuit brought against it. There are no indemnity obligations between these parties.

9. **EMPLOYMENT PRACTICES:** Contractor agrees to abide by the following employment laws: (i) Title VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; (ii) Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; (iii) 45 CFR 90 which prohibits discrimination on the basis of age; (iv) Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities; and (v) Utah's Executive Order, dated December 13, 2006, which prohibits unlawful harassment in the work place. Contractor further agrees to abide by any other laws, regulations, or orders that prohibit the discrimination of any kind by any of Contractor's employees.

10. **AMENDMENTS:** This Contract may only be amended by the mutual written agreement of the parties, which amendment will be attached to this Contract. Automatic renewals will not apply to this Contract.

11. **DEBARMENT:** Contractor certifies that it is not presently nor has ever been debarred, suspended, or proposed for debarment by any governmental department or agency, whether international, national, state, or local. Contractor must notify the State Entity within thirty (30) days if debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any contract by any governmental entity during this Contract.

12. **TERMINATION:** Unless otherwise stated in this Contract, this Contract may be terminated, with cause by either party, in advance of the specified expiration date, upon written notice given by the other party. The party in violation will be given ten (10) days after written notification to correct and cease the violations, after which this Contract may be terminated for cause immediately and is subject to the remedies listed below. This Contract may also be terminated without cause (for convenience), in advance of the specified expiration date, by either party, upon sixty (60) days written termination notice being given to the other party. The State Entity and the Contractor may terminate this Contract, in whole or in part, at any time, by mutual agreement in writing. On termination of this Contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved Services ordered prior to date of termination.

Contractor shall be compensated for the Services properly performed under this Contract up to the effective date of the notice of termination. Contractor agrees that in the event of such termination for cause or without cause, Contractor's sole remedy and monetary recovery from the State Entity or the State of Utah is limited to full payment for all Services properly performed as authorized under this Contract up to the date of termination as well as any reasonable monies owed as a result of Contractor having to terminate other contracts necessarily and appropriately entered into by Contractor pursuant to this Contract.

13. **NONAPPROPRIATION OF FUNDS, REDUCTION OF FUNDS, OR CHANGES IN LAW:** Upon thirty (30) days written notice delivered to the Contractor, this Contract may be terminated in whole or in part at the sole discretion of the State Entity, if the State Entity reasonably determines that: (i) a change in Federal or State legislation or applicable laws materially affects the ability of either party to perform under the terms of this Contract; or (ii) that a change in available funds affects the State Entity's ability to pay under this Contract. A change of available funds as used in this paragraph, includes, but is not limited to, a change in Federal or State funding, whether as a result of a legislative act or by order of the President or the Governor.

If a written notice is delivered under this section, the State Entity will reimburse Contractor for the Services properly ordered until the effective date of said notice. The State Entity will not be liable for any performance, commitments, penalties, or liquidated damages that accrue after the effective date of said written notice.

14. **SUSPENSION OF WORK:** Should circumstances arise which would cause the State Entity to suspend Contractor's responsibilities under this Contract, but not terminate this Contract, this will be done by written notice. Contractor's responsibilities may be reinstated upon advance formal written notice from the State Entity.

15. **SALES TAX EXEMPTION:** The Services under this Contract will be paid for from the State Entity's funds and used in the exercise of the State Entity's essential functions as a State of Utah entity. Upon request, the State Entity will provide Contractor with its sales tax exemption number. It is Contractor's responsibility to request the State Entity's sales tax exemption number. It also is Contractor's sole responsibility to ascertain whether any tax deduction or benefits apply to any aspect of this Contract.

16. **INSURANCE: INTENTIONALLY DELETED**

17. **WORKERS COMPENSATION INSURANCE:** Contractor shall maintain during the term of this Contract, workers' compensation insurance for all its employees, as well as any subcontractor employees related to this Contract. Worker's compensation insurance shall cover full liability under the worker's compensation laws of the jurisdiction in which the service is performed at the statutory limits required by said jurisdiction. Contractor acknowledges that within thirty (30) days of contract award, Contractor must submit proof of certificate of insurance that meets the above requirements.

18. **ADDITIONAL INSURANCE REQUIREMENTS: INTENTIONALLY DELETED**

19. **PUBLIC INFORMATION:** Contractor agrees that this Contract, related purchase orders, related pricing documents, and invoices will be public documents, and may be available for public and private distribution in accordance with the State of Utah's Government Records Access and

harmless from any claim or liability arising out of CONTRACTORS' or its agents' and/or employees' workers' compensation claims, or its SUBCONTRACTORS' employees' and/or agents' workers' compensation claims.

15. **CONTRACTOR IS AN INDEPENDENT CONTRACTOR:** CONTRACTOR acknowledges and agrees that it is providing its services and the services performed by its employees and/or agents as an independent contractor and not as an employee of UDC or the State of Utah. CONTRACTOR acknowledges and agrees that it is not entitled to any benefits, wages, or rights to which employees of UDC are entitled, including but not limited to retirement, medical/dental, leave, and overtime benefits. As an independent contractor, CONTRACTOR is solely responsible to pay appropriate federal and state taxes, FICA and FUTA on payments received by it and its employees and/or agents. CONTRACTOR agrees to indemnify UDC for all losses arising out of CONTRACTOR'S or SUBCONTRACTORS' tax liabilities, including any and all penalties, assessments, and/or claims against UDC.
16. **WAIVER OF CLAIMS:** CONTRACTOR and/or his agents/employees expressly and knowingly waive(s) any claim to wages, employment benefits and/or rights entitled to employees of UDC. By waiving its claims, CONTRACTOR agrees that neither it nor its employees/agents will file claims for wages and/or employment benefits entitled to employees of UDC, including but not limited to claims arising under the Federal Labor and Standards Act (FLSA) and/or State employment laws. CONTRACTOR agrees to indemnify, defend, and hold the UDC harmless against claims for employee wages, benefits, and/or rights otherwise entitled to employees of UDC.
17. **CONFIDENTIALITY:** CONTRACTOR hereby agrees, as to any records or records series provided to CONTRACTOR by the Utah Department of Corrections (UDC) which are classified pursuant to the Utah Government Records and Management Act (GRAMA) as "private," "controlled," or "protected," that CONTRACTOR is subject to the same GRAMA restrictions on disclosure by CONTRACTOR of such records or record series as is UDC. CONTRACTOR further agrees that any such record or record series requested are necessary for the performance of CONTRACTOR'S contract with UDC; that the CONTRACTOR'S use of the records or record series produces a public benefit that outweighs the individual privacy right that protect the records or record series; that the records or record series will only be used for the performance of the contract with UDC; that the records or record series will not be disclosed to any other person; and that the records or record series will not be used for advertising or solicitation purposes.
18. Contractor understands that any person who intentionally discloses, provides a copy of, or improperly uses such records or record series, knowing that the disclosure is prohibited, is guilty of a class B misdemeanor.
19. **CONTRACTOR TRAINING:** All CONTRACTOR'S officers, employees, subcontractors, agents, or volunteers, providing services pertaining directly to this contract, shall successfully complete orientation or a training session offered by UDC prior to contract implementation.
20. **CUSTODIAL SEXUAL MISCONDUCT:** Utah Statute 76-5-412 prohibits sexual contact to a person in custody by an employee, private provider, or CONTRACTOR for the Utah Department of Corrections. A violation of this statute could result in a felony or a misdemeanor conviction. Consent of the person in custody is not a defense to any violation or attempted violation of this statute. CONTRACTOR must provide written notice of Utah Code Annotated § 76-5-412 to any employees having contact with offenders pursuant to this contract.
21. In addition, the Utah Division of Occupational and Professional Licensing (DOPL) is legislatively responsible to investigate complaints regarding the conduct of individuals practicing in regulated occupations and professions. DOPL may be notified of violations of conduct for those UDC CONTRACTORS who are licensed under DOPL. Refer to Title 58 of the Utah Code and Title R156 of the Utah Administrative Code for details.
22. **RESEARCH / EXPERIMENTS:** Any research or experiments including offenders must be approved by the Departmental Review Board. Sociological/psychological research or experiments including offenders under the jurisdiction of UDC requires prior written approval of the Division Director/designee and written, informed, and voluntary consent from each offender included.

Revised May 2009

END OF ATTACHMENT B



RURAL
COMMUNITY
CONSULTANTS

STANDARD TERMS AND CONDITIONS

I. SCOPE

Rural Community Consultants, LLC (RCC) agrees to perform the services described above which incorporates these terms and conditions. RCC's services shall be provided consistent with and limited to the standard of care applicable to such services, which is that RCC shall provide its services consistent with the professional skill and care ordinarily provided by consultants practicing in the same or similar locality under the same or similar circumstances. Unless modified in writing by the parties hereto, the duties of RCC shall not be construed to exceed those services specifically set forth above. These terms and conditions and the agreement, when executed by Client, shall constitute a binding agreement on both parties (hereinafter the "Agreement").

II. COMPENSATION

Client agrees to pay for the services in accordance with the compensation provisions in the Work Order and Agreement. Payment to RCC will be made within 30 days after the date of billing. Interest on the unpaid balance will accrue beginning on the 31st day at the maximum interest rate permitted by law.

Time-related charges will be made in accordance with the billing rate referenced in the proposal or Agreement. Direct expenses and subcontractor services shall be billed in accordance with the proposal or compensation exhibit attached to this Agreement. Otherwise, RCC's standard billing rates shall apply.

III. RESPONSIBILITY

RCC is employed to render a professional service only, and any payments made by Client are compensation solely for such services rendered and recommendations made in carrying out the work. RCC shall perform the services in accordance with generally-accepted practices and standards in effect when the services are rendered. ~~RCC does not expressly or impliedly warrant or guarantee its services.~~

IV. ATTORNEYS' FEES

In the event of any litigation arising from or related to this Agreement or the services provided under this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all reasonable costs incurred, including staff time, court costs, attorneys' fees and all other related expenses in such litigation.

V. SUBCONTRACTS

RCC shall be entitled, to the extent determined to be appropriate by RCC, to subcontract any portion of the Work to be performed under this Agreement.

VI. ASSIGNMENT

This Agreement is binding on the heirs, successors, and assigns of the parties hereto. The Agreement is not to be assigned by either Client or RCC without the prior written consent of the other.

VII. INTEGRATION

These terms and conditions and the proposal to which they are attached represent the entire understanding of Client and RCC as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. The Agreement may not be modified or altered, except in writing signed by both parties, provided further that any terms and conditions in any task order or purchase order issued in connection or under the Agreement which are inconsistent with the Agreement are deemed null and void.

VIII. CHOICE OF LAW/JURISDICTION

This Agreement shall be administered and interpreted under the laws of the State of Utah. Jurisdiction of litigation arising from the Agreement shall be in the State of Utah.

IX. SEVERABILITY

If any part of the Agreement is found unenforceable under applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with such laws, but the remainder of the Agreement shall be in full force and effect.

X. NO BENEFIT FOR THIRD PARTIES

The services to be performed by RCC hereunder are intended solely for the benefit of Client, and no right or benefit is conferred on, nor any contractual relationship intended or established with any person or entity not a party to this Agreement. No such person or entity shall be entitled to rely on RCC's performance of its services hereunder.

XI. WORK PRODUCT

RCC and Client recognize that RCC's work product submitted in performance of this Agreement is intended only for the Client's benefit and use. Change, alteration, or reuse by Client shall be at Client's sole risk, and Client shall hold harmless and indemnify RCC against all losses, damages, costs and expenses, including attorneys' fees, arising out of or related to any such unauthorized change, alteration or reuse.

Any signed and dated documents prepared by the Consultant are the Work Product. The transfer of any Work Product for use by the Client shall not be deemed a sale, ~~and the Consultant makes no warranty, either express or implied, of merchantability or fitness for any particular purpose.~~

XII. LIMIT OF LIABILITY

~~To the fullest extent permitted by law, the total liability, in the aggregate, of RCC and RCC's officers, directors, partners, employees, agents and consultants or any of them, to Client and anyone claiming by, through or under Client, for any and all injuries, losses, damages and expenses, whatsoever arising out of, resulting from, or in any way related to this Agreement, in any cause or causes, including, but not limited to, the negligence, professional errors or omissions, strict liability or breach of contract or warranty, express or implied, of RCC or RCC's officers, directors, partners, employees, agents and consultants, or any of them, shall not exceed the total amount of compensation for services.~~

XIII. SUSPENSION OF WORK

Work under this Agreement may be suspended as follows:

1. **By Client:** By written notice to RCC, Client may suspend all or a portion of the Work under this Agreement if unforeseen circumstances beyond Client's control make normal progress of the Work impracticable. ~~RCC shall be compensated for its reasonable expenses resulting from such suspension.~~ If suspension is greater than 30 days, then RCC shall have the right to terminate this Agreement in accordance with Article XIV, Termination of Work.
2. **By RCC:** By written notice to Client, RCC may suspend the Work if RCC reasonably determines that working conditions (outside RCC's control) are unsafe, or in violation of applicable laws, or for other circumstances not caused by RCC that are interfering with the normal progress of the Work. RCC's suspension of Work hereunder shall be without prejudice to any other remedy of RCC at law or equity.

XIV. TERMINATION OF WORK

This Agreement shall be terminated as follows:

1. **Client** (a) for its convenience on 30 days' notice to RCC, or (b) for materially breaches of this Agreement through no fault of Client and RCC neither cures such material breach nor makes reasonable progress toward cure within 15 days after Client has given written notice of the alleged breach to RCC.
2. **By RCC** (a) for cause, if Client materially breaches this Agreement through no fault of RCC and Client neither cures such material breach nor makes reasonable progress toward cure within 15 days after RCC has given written notice of the alleged breach to Client, or (b) upon 5 days' notice if Work under this Agreement has been suspended by either client or RCC in the aggregate for more than 30 days.
3. **Payment upon Termination:** In the event of termination, RCC shall perform such additional work as is reasonably necessary for the orderly closing of the Work. RCC shall be compensated for all work performed prior to the effective date of termination, plus work required for the orderly closing of the Work. ~~Except for termination of RCC by Client for cause, RCC shall also receive a termination fee equal to 15 percent of the total compensation yet to be earned under existing authorizations at the time of termination.~~

XV. NOTICES

All notices required under this Agreement shall be by personal delivery, facsimile or mail to the RCC Manager and to the person signing the proposal on behalf of the Client, and shall be effective upon delivery to the address stated in the proposal.

XVI. HOLD HARMLESS

RCC's commitments as set forth in this Agreement are based on the expectation that all of the services described in this Agreement will be provided. In the event Client later elects to reduce Consultant's scope of services, Client hereby agrees to release, hold harmless, defend and indemnify RCC from any and all claims, damages, losses or costs associated with or arising out of such reduction in services.

RCC Initials _____

Client Initials _____

contract

Clerk/Auditor:
Legal: <u>DE 5/4/14</u>
Finance:

THIS CONTRACT for the personal services of The Fender Benders on the engagement described below, made this 11 day of March, 2014, between the undersigned purchaser of music (herein called "Employer") and The Fender Benders (herein referred to as "the Performers.")

1. Name of Place of Performance Sevier County Fair
2. Address of Place of Performance 410 East 200 South, Richfield, Utah 84701
3. Name and Address of Alternate Place of Performance (in case of inclement weather at planned outdoor performance)
4. Date of Performance Sat. 9 August 2014
5. Hours of Performance 2:30 P.M.
6. Time the Performers Must be Finished Setting Up
7. Time Venue will be Open/Cleared for Set Up None
(NOTE: two hours set up time is required)
8. Type of Event (specify) County Fair
Is the Event Open to the Public? (circle) YES NO
If yes, what is the amount of the admission charge? free
9. Special Musical Requests
10. Other terms
11. Contract Price One thousand five hundred dollars (\$1,500.00) plus four hotel rooms
(Please make checks payable to "Irvin Nichols" - Tax ID number or W-9 available upon request)
12. Amount of Deposit Two hundred dollars (\$200.00)
The deposit is required to reserve the date of performance (4. above). Until the deposit is received, the Performers may cancel this contract without liability. In the event that Employer, for any reason, cancels this performance, the deposit will be forfeit.
13. Employer will make payment in full (contract price less deposit) delivered to the Performers on the date of performance (4. above). If payment is late, ten percent will be added to the contract price.
14. The Performers are entitled to a maximum of 10 minutes per hour for breaks.
15. Employer is responsible to ensure that no unauthorized persons are allowed access to the stage area before, during, and after the performance. If any unauthorized person enters the stage area, the performance will immediately stop until such time as the stage has been cleared. Unless specified in the terms of this contract (10. above), the Performers will not allow anyone to use their equipment nor to perform on stage, neither during sets nor during breaks.
16. Employer is liable for damage to band equipment caused by any person other than the Performers *Employer's agents, employees or representatives.*
17. Employer is responsible to provide at least 30 amps (60 amps preferred) of properly wired, grounded, stable, clean, "110 volt" (actual 110V minimum to 125V maximum), 60hz AC power, within 100 feet of the center of the stage. If any power source other than utility-provided 110V is used, Employer is liable for any and all equipment damage caused by voltage variations outside of these specifications.
18. Employer is responsible to provide a stage or space adequate for the Performers and their equipment. (NOTE: 24 x 18 feet or larger is preferred; 18 x 12 feet minimum.)
19. If performance is indoors or after sunset, Employer is responsible to provide adequate stage lighting. (Lights must be run off a power source separate from that specified in 17. above).
20. If performance is indoors, no smoking will be allowed in the building before, during, or after the performance. If performance is outdoors, no smoking will be allowed within 20 feet of the stage.
21. The performers will supply a PA system and sound technician. The PA may be used by Employer for announcements and/or background music during breaks (advance notice required).

Overtime is charged at \$1,000 per hour. Overtime begins if they are asked to play longer. Overtime must be paid by cash or check on the evening of the performance.

14) Cancellation: Deposit is non-refundable. Other buyers will be turned away, and extensive scheduling will take place to hold this date for Buyer. If Buyer cancels the performance, Buyer shall pay Performers, by the performance date, the above identified balance as liquidated damages. If Performers do not appear due to illness or accident, a suitable replacement will be sent, or all monies will be refunded to Buyer.

15) Force Majeure: Performers shall be excused by detention of personnel by sickness. If individual performers are ill, equally talented substitutes will be sent. Either party shall be excused for non-performance due to accidents, riots, strikes, epidemics, terrorism, acts of God, or any other large-scale, legitimate condition beyond the control of the affected party. Performers and Buyer agree to renegotiate this contract to their mutual satisfaction in the event that force majeure conditions prevent the performance on the original dates.

16) Weather: Performers' obligations are excused if roads are declared impassable or if other weather-related issues render performance hazardous. Buyer remains liable to Performers for full contract price, so an alternate venue is strongly suggested if weather could potentially render the venue, or travel to it, hazardous. Performers who will play outside must be protected from sun and heat, wind, rain, cold, and other elements that would damage their health, safety, comfort, and instruments.

17) Insurance: Buyer and venue warrant and represent that they have, or shall obtain, sufficient personal injury and property damage liability insurance with respect to Buyer's liabilities that may arise from the Event. Green Light Booking LLC and Performers are indemnified against all claims that may arise from this event, *excluding negligent or intentional acts of Green Light Booking LLC and Performers.*

18) Taxes: Performers and Green Light Booking LLC are engaged as an independent partnership and shall assume and pay, and hold Buyer harmless therefrom, any and all taxes, including, but not limited to, income tax withholding, FICA withholding, workers compensation withholding and federal and state unemployment insurance, and will comply with all reporting requirements in connection therewith.

19) General: This agreement will be governed and construed in accordance with the laws of the State of Utah. This agreement constitutes the entire agreement between the Parties.

I have read and agree to all terms as written in this Agreement:

Buyer

By _____ (printed name) _____

Date _____

ATTACHMENT A: TERMS AND CONDITIONS – Bailiff and Security Contracts

1. **AUTHORITY:** Provisions of this contract are pursuant to the authority set forth in 11-13-101 commonly referred to as the Inter-local Cooperation Act, 17-22-2, 17-22-27 and 63-63C-102 Utah Code annotated, 1953, as amended.
2. **SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal source, that any provision of this contract is illegal and void shall not affect the legality and enforceability of any other provision of this contract, unless the provisions are mutually dependent.
3. **RENEGOTIATION OR MODIFICATIONS:** This contract may be amended, modified, or supplemented only by written amendment to the contract, executed by the same persons or by persons holding the same position as persons who signed the original agreement on behalf of the parties hereto, and attached to the original signed copy of the contract. Automatic renewals will not apply to this contract.
4. **TERMINATION:** This contract may be terminated in advance of the specified expiration date, by either party, upon ninety (90) days written notice being given the other party. On termination of this contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination. Termination shall not affect the rights and duties of either party as may be required by law.
5. **NONAPPROPRIATION OF FUNDS:** The provision of this contract placing an obligation upon the State to compensate the Sheriff for services is contingent upon, and limited to the extent that, funds are appropriated for this purpose by the Legislature. The State will actively seek adequate funding from the Legislature to fulfill the obligations of this contract. In the event that funds are not appropriated or otherwise available to honor the terms of this contract, the State may renegotiate the agreement or may terminate the agreement without penalty upon 30 days written notice to the Sheriff.
6. **INDEMNIFICATION:** The State shall be responsible for all damages to persons or property that occurs as a result of the negligence or fault of State employees in connection with the performance of this contract. The County shall be responsible for all damages to persons or property that occurs as a result of the negligence or fault of the County in connection with the performance of this Contract. *The County shall indemnify and hold the State free and harmless from all claims that arise as a result of the negligence or fault of the County, its officers, agents and employees.*
7. **EMPLOYMENT STATUS:** All persons performing duties under the terms of this Contract shall be County employees and shall have no right to any state pension, civil service, workers' compensation, unemployment or any other state benefit for services provided hereunder. The County will have full supervision authority, subject to the Scope of Work, over all persons employed to carry out the requirements of this Contract.
8. **PAYMENT:** Payments are normally made within 30 days following the date a correct invoice is received. All invoices must be submitted in an approved format.
9. **COMPENSATION:** The compensation paid by the State to the County pursuant to this Agreement shall be used only for the services provided pursuant to the Agreement, and County shall not have the authority or right to use such funds for other purposes. The State shall compensate the County for salary and benefits of sworn officers in conformance with the provisions of Sections 17-22-2, 17-22-23, 17-22-27 and 63-63c-102 Utah Code annotated 1953, as amended, and Rule 3-414 of the Code of Judicial Administration. This agreement shall not serve to compensate County for costs related to security administration, supervision, travel, equipment and training.
10. **EQUIPMENT:** The equipment used by County personnel shall be provided and maintained by the County except for elements of the security systems (i.e. magnetometers, surveillance and other monitoring devices) provided by the State.

strictly confidential; and (iii) not disclose any Confidential Information received by it to any third parties. Contractor will promptly notify the State Entity of any potential or actual misuse or misappropriation of Confidential Information.

Contractor shall be responsible for any breach of this duty of confidentiality, including any required remedies and/or notifications under applicable law. Contractor shall indemnify, hold harmless, and defend the State Entity and the State of Utah, including anyone for whom the State Entity or the State of Utah is liable, from claims related to a breach of this duty of confidentiality, including any notification requirements, by Contractor or anyone for whom the Contractor is liable.

Upon termination or expiration of this Contract, Contractor will return all copies of Confidential Information to the State Entity or certify, in writing, that the Confidential Information has been destroyed. This duty of confidentiality shall be ongoing and survive the termination or expiration of this Contract.

33. **PUBLICITY:** Contractor shall submit to the State Entity for written approval all advertising and publicity matters relating to this Contract. It is within the State Entity's sole discretion whether to provide approval, which must be done in writing.
34. **CONTRACT INFORMATION: INTENTIONALLY DELETED.**
35. **INDEMNIFICATION RELATING TO INTELLECTUAL PROPERTY:** Contractor will indemnify and hold the State Entity and the State of Utah harmless from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities, and costs in any action or claim brought against the State Entity or the State of Utah for infringement of a third party's copyright, trademark, trade secret, or other proprietary right. *The parties agree that if there are any limitations of Contractor's liability such limitations of liability will not apply to this section.*
36. **OWNERSHIP IN INTELLECTUAL PROPERTY:** The State Entity and Contractor each recognizes that each has no right, title, interest, proprietary or otherwise in the intellectual property owned or licensed by the other, unless otherwise agreed upon by the parties in writing. All deliverables, documents, records, programs, data, articles, memoranda, and other materials not developed or licensed by Contractor prior to the execution of this Contract, but specifically created or manufactured under this Contract shall be considered work made for hire, and Contractor shall transfer any ownership claim to the State Entity.
37. **WAIVER:** A waiver of any right, power, or privilege shall not be construed as a waiver of any subsequent right, power, or privilege.
38. **ATTORNEY'S FEES: INTENTIONALLY DELETED**
39. **PROCUREMENT ETHICS:** Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan, reward, or any promise thereof to any person acting as a procurement officer on behalf of the State of Utah, or to any person in any official capacity participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization.
40. **DISPUTE RESOLUTION: INTENTIONALLY DELETED.**
41. **ORDER OF PRECEDENCE:** In the event of any conflict in the terms and conditions in this Contract, the order of precedence shall be: (i) this Attachment A; (ii) Contract Signature Page(s); (iii) the State of Utah's additional terms and conditions, if any; (iv) any other attachment listed on the Contract Signature Page(s); and (v) Contractor's terms and conditions that are attached to this Contract, if any. Any provision attempting to limit the liability of Contractor or limits the rights of the State Entity or the State of Utah must be in writing and attached to this Contract or it is rendered null and void.
42. **SURVIVAL OF TERMS:** Termination or expiration of this Contract shall not extinguish or prejudice the State Entity's right to enforce this Contract with respect to any default of this Contract or defect in the Services that has not been cured.
43. **SEVERABILITY:** The invalidity or unenforceability of any provision, term, or condition of this Contract shall not affect the validity or enforceability of any other provision, term, or condition of this Contract, which shall remain in full force and effect.
44. **ENTIRE AGREEMENT:** This Contract constitutes the entire agreement between the parties and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written.

(Revision date: 12 February 2015)

WARRANTY WAIVERS

to know and only to the extent necessary to enable the parties to adequately perform their respective responsibilities to each other.

7.2 Each party agrees to hold the other's Confidential Information in strict confidence and not to disclose such Confidential Information to any third party or to use it for any purpose other than as specifically authorized by the other party. Each party agrees that it will employ all reasonable steps to protect the Confidential Information of the other party from unauthorized or inadvertent disclosure, including without limitation all steps that it takes to protect its own information that it considers proprietary and where necessary requiring third parties to enter into three way confidentiality agreements with both parties.

7.3 "Confidential Information" shall not include information which (i) was already known to the receiving party prior to the time that it is disclosed to such party hereunder; (ii) is in or has entered the public domain through no breach of this Agreement or other wrongful act of the receiving party or an agent or employee of the receiving party; (iii) has been rightfully received from a third party without breach of this Agreement; (iv) has been approved for release by written authorization of the disclosing party; or (v) is required to be disclosed by law or order of a governmental agency or court of competent jurisdiction, provided that the party who owns the Confidential Information has been given reasonable notice of such law requiring disclosure or the pendency of such an order and the opportunity to contest it or to request confidential treatment.

7.4 The obligation to protect the confidentiality of all Confidential Information disclosed by the parties to each other prior to such termination shall survive the termination of the Agreement.

7.5 The parties each acknowledge that the disclosure of any aspect of Confidential Information may give rise to irreparable injury to the non-breaching party which may be inadequately compensable in damages. Accordingly, the parties agree that the non-breaching party may obtain injunctive relief against any such breach or threatened breach, in addition to any other legal remedies which may be available, and the parties hereby consent to the obtaining of such injunctive relief.

Article VIII - WARRANTIES

8.1 Licensor represents and warrants that (i) it is the sole owner of the Software and that it has full right, title and authority to license the Software; (ii) the Software will contain the functions substantially in accordance with the Documentation written and Specifications provided to Licensee herein; and (iii) Licensee's use of the Software will not infringe upon any United States patent, copyright or trade secret.

8.2 Licensor does not warrant that Licensee's operation of the Software will be uninterrupted or error free.

8.3 ~~THE WARRANTIES PROVIDED FOR IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. TO THE EXTENT PERMITTED BY LAW, LICENSOR EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, THAT MAY ARISE EITHER BY AGREEMENT BETWEEN THE PARTIES OR BY OPERATION OF LAW, INCLUDING THE WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.~~

Master Services Agreement Sevier County Jail (UT)

This Master Services Agreement (this "Agreement") is by and between the Sevier County Jail ("you" or "Customer") and Securus Technologies, Inc., ("we," "us," or "Provider"). This Agreement supersedes any and all other agreements (oral, written, or otherwise) that may have been made between the parties and shall be effective as of the last date signed by either party (the "Effective Date").

Whereas the Customer desires that Provider install an inmate telecommunication system and provide telecommunications and maintenance services according to the terms and conditions in this Agreement according to the Schedule and Work Orders, which are incorporated by reference into this Agreement;

Whereas the Provider agrees to install the inmate telecommunications system and provide telecommunications and maintenance services according to the terms and conditions in this Agreement and the Schedule and Work Orders, which are incorporated by reference into this Agreement;

Now therefore, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. **Applications.** This Agreement specifies the general terms and conditions under which we will perform certain inmate-related services and applications (the "Application(s)") for you. Additional terms and conditions with respect to the Applications will be specified in the schedules entered into by the parties and attached hereto (the "Schedules"). The Schedules are incorporated into this Agreement and are subject to the terms and conditions of this Agreement. In the event of any conflict between this Agreement and a Schedule, the terms of the Schedule shall govern. In the event of any conflict between any two Schedules for a particular Application, the latest in time shall govern.

2. **Use of Applications.** You grant us the exclusive right and license to install, maintain, and derive revenue from the Applications through our inmate systems (including, without limitation, the related hardware and software) (the "System") located in and around the inmate confinement facilities identified on the Schedules (the "Facilities"). You are responsible for the manner in which you and your respective users use the Applications. Unless expressly permitted by a Schedule or separate written agreement with us, you will not resell the Applications or provide access to the Applications (other than as expressly provided in a particular Schedule), directly or indirectly, to third parties. During the term of this Agreement and subject to the remaining terms and conditions of this Agreement, Provider shall be the sole and exclusive provider of existing and any future inmate related communications, whether fixed, mobile or otherwise, including but not limited to voice, video, and data (e.g., phone calls, video calls, messaging, prepaid calling cards, debit calling, and e-mail) and inmate software applications (e.g., automated grievance filing system, law library, etc.) at all existing and future correctional facilities under the authority of Customer in lieu of any other third party providing such inmate communications, including without limitation, Customer's employees, agents, or subcontractors.

3. **Compensation.** Compensation for each Application, if any, and the applicable payment addresses are as stated in the Schedules.

Term. The obligations of the parties shall be effective as of the Effective Date, but the "Initial Term" shall begin 120 days after the Effective Date (to allow for installation of hardware and/or implementation of network connectivity) and shall end on the date that is 60 months thereafter. Unless one party delivers to the other written notice of non-renewal at least ninety (90) days before the end of the then current term, this Agreement shall automatically renew for successive periods of twelve (12) months each. Notwithstanding anything to the contrary, the terms and conditions of this Agreement shall continue to apply to each Schedule for so long as we continue to provide the Application to you after the expiration or earlier termination of this Agreement.

5. **Service Level Agreement and Limited Remedy.** We are committed to providing you with reliable, high quality Applications, and we offer certain assurances about the quality of our Applications (the "Service Level Agreement"). The Service Level Agreement for each Application is as set forth in the applicable Schedule. THE SERVICE LEVEL AGREEMENT SETS FORTH THE SOLE AND EXCLUSIVE REMEDIES FOR FAILURE OR DEFECT OF AN APPLICATION. WE DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ANY IMPLIED WARRANTY ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE, AND NON-INFRINGEMENT.

6. **Software License.** We grant you a personal, non-exclusive, non-transferable license (without the right to sublicense) to access and use certain proprietary computer software products and materials in connection with the Applications (the "Software"). In connection therewith, Customer represents that (i) it will be responsible for distributing and assigning licenses to its end users, and (ii) it will monitor and ensure that its licensed end users comply with all Provider Use Terms and Conditions and as directed herein. The Software includes any upgrades, modifications, updates, and additions to

Agreement

Rural Community Consultants, LLC (RCC) will submit progress invoices to Client and a final bill upon completion of the services. Each invoice is due upon receipt. Client agrees to pay a finance charge of one and one-half percent (1½%) per month, or the maximum rate allowed by law, on accounts thirty (30) days past-due. Any attorneys' fees or other costs incurred in collecting any delinquent amounts shall be paid by the Client. A lien will be filed within 90 days of completion of services if the invoice has not been paid.

Unless otherwise agreed, client will furnish right-of-way entry for RCC. Reports, plans, and other work prepared by RCC remain the property of RCC. Client agrees that all work furnished to the Client and his agents not paid for will be returned upon demand, and will not be used.

RCC, LLC agrees, in connection with services performed under this Agreement, that such services are performed with the care and skill ordinarily exercised by members of the profession practicing under similar conditions at the same time and in the same or similar locality. ~~No warranty, expressed or implied, is made or intended by rendition of consulting services or by furnishing oral or written reports of the findings made. Liability is limited to fees paid.~~ RCC's Standard Terms & Conditions are attached hereto and incorporated herein by reference.

Fee Schedule

The client agrees to pay in accordance with the following billing structure:

Lump sum payment, not to exceed, \$56,000 (\$28,000 to be paid upon delivery of the first draft; remaining \$28,000 to be paid at completion). Any adjustment to scope or additional work will be completed according to the attached hourly rates effective April 1, 2016. Rates are subject to annual adjustment.

RURAL COMMUNITY CONSULTANTS, LLC

SEVIER COUNTY

Signature

Signature

Title

Title

Date

Date

Dept. Head:

Clerk/Auditor:

Legal: EC 5/22/16 / change

Finance:



RURAL
COMMUNITY
CONSULTANTS

STANDARD TERMS AND CONDITIONS

I. SCOPE

Rural Community Consultants, LLC (RCC) agrees to perform the services described above which incorporates these terms and conditions. RCC's services shall be provided consistent with and limited to the standard of care applicable to such services, which is that RCC shall provide its services consistent with the professional skill and care ordinarily provided by consultants practicing in the same or similar locality under the same or similar circumstances. Unless modified in writing by the parties hereto, the duties of RCC shall not be construed to exceed those services specifically set forth above. These terms and conditions and the agreement, when executed by Client, shall constitute a binding agreement on both parties (hereinafter the "Agreement").

II. COMPENSATION

Client agrees to pay for the services in accordance with the compensation provisions in the Work Order and Agreement. Payment to RCC will be made within 30 days after the date of billing. Interest on the unpaid balance will accrue beginning on the 31st day at the maximum interest rate permitted by law.

Time-related charges will be made in accordance with the billing rate referenced in the proposal or Agreement. Direct expenses and subcontractor services shall be billed in accordance with the proposal or compensation exhibit attached to this Agreement. Otherwise, RCC's standard billing rates shall apply.

III. RESPONSIBILITY

RCC is employed to render a professional service only, and any payments made by Client are compensation solely for such services rendered and recommendations made in carrying out the work. RCC shall perform the services in accordance with generally accepted practices and standards in effect when the services are rendered. ~~RCC does not expressly or impliedly warrant or guarantee its services.~~

IV. ATTORNEYS' FEES

In the event of any litigation arising from or related to this Agreement or the services provided under this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all reasonable costs incurred, including staff time, court costs, attorneys' fees and all other related expenses in such litigation.

V. SUBCONTRACTS

RCC shall be entitled, to the extent determined to be appropriate by RCC, to subcontract any portion of the Work to be performed under this Agreement.

VI. ASSIGNMENT

This Agreement is binding on the heirs, successors, and assigns of the parties hereto. The Agreement is not to be assigned by either Client or RCC without the prior written consent of the other.

VII. INTEGRATION

These terms and conditions and the proposal to which they are attached represent the entire understanding of Client and RCC as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. The Agreement may not be modified or altered, except in writing signed by both parties, provided further that any terms and conditions in any task order or purchase order issued in connection or under the Agreement which are inconsistent with the Agreement are deemed null and void.

VIII. CHOICE OF LAW/JURISDICTION

This Agreement shall be administered and interpreted under the laws of the State of Utah. Jurisdiction of litigation arising from the Agreement shall be in the State of Utah.

IX. SEVERABILITY

If any part of the Agreement is found unenforceable under applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with such laws, but the remainder of the Agreement shall be in full force and effect.

X. NO BENEFIT FOR THIRD PARTIES

The services to be performed by RCC hereunder are intended solely for the benefit of Client, and no right or benefit is conferred on, nor any contractual relationship intended or established with any person or entity not a party to this Agreement. No such person or entity shall be entitled to rely on RCC's performance of its services hereunder.

XI. WORK PRODUCT

RCC and Client recognize that RCC's work product submitted in performance of this Agreement is intended only for the Client's benefit and use. Change, alteration, or reuse by Client shall be at Client's sole risk, and Client shall hold harmless and indemnify RCC against all losses, damages, costs and expenses, including attorneys' fees, arising out of or related to any such unauthorized change, alteration or reuse.

Any signed and dated documents prepared by the Consultant are the Work Product. The transfer of any Work Product for use by the Client shall not be deemed a sale, ~~and the Consultant makes no warranty, either express or implied, of merchantability or fitness for any particular purpose.~~

XII. LIMIT OF LIABILITY

~~To the extent permitted by law, the total liability, in the aggregate, of RCC and RCC's officers, directors, partners, employees, agents and consultants or any of them, to Client and anyone claiming by, through or under Client, for any and all injuries, losses, damages and expenses, whatsoever arising out of, resulting from, or in any way related to this Agreement, in any cause or causes, including, but not limited to, the negligence, professional errors or omissions, strict liability or breach of contract or warranty, express or implied, of RCC or RCC's officers, directors, partners, employees, agents and consultants, or any of them, shall not exceed the total amount of compensation for services.~~

XIII. SUSPENSION OF WORK

Work under this Agreement may be suspended as follows:

1. ~~By Client.~~ By written notice to RCC, Client may suspend all or a portion of the Work under this Agreement if unforeseen circumstances beyond Client's control make normal progress of the Work impracticable. ~~RCC shall be compensated for its reasonable expenses resulting from such suspension.~~ If suspension is greater than 30 days, then RCC shall have the right to terminate this Agreement in accordance with Article XIV, Termination of Work.

2. ~~By RCC.~~ By written notice to Client, RCC may suspend the Work if RCC reasonably determines that working conditions (outside RCC's control) are unsafe, or in violation of applicable laws, or for other circumstances not caused by RCC that are interfering with the normal progress of the Work. RCC's suspension of Work hereunder shall be without prejudice to any other remedy of RCC at law or equity.

XIV. TERMINATION OF WORK

This Agreement shall be terminated as follows:

1. ~~Client~~ (a) for its convenience on 30 days' notice to RCC, or (b) for material breaches of this Agreement through no fault of Client and RCC neither cures such material breach nor makes reasonable progress toward cure within 15 days after Client has given written notice of the alleged breach to RCC.

2. ~~By RCC~~ (a) for cause, if Client materially breaches this Agreement through no fault of RCC and Client neither cures such material breach nor makes reasonable progress toward cure within 15 days after RCC has given written notice of the alleged breach to Client, or (b) upon 5 days' notice if Work under this Agreement has been suspended by either Client or RCC in the aggregate for more than 30 days.

3. ~~Payment upon Termination.~~ In the event of termination, RCC shall perform such additional work as is reasonably necessary for the orderly closing of the Work. RCC shall be compensated for all work performed prior to the effective date of termination, plus work required for the orderly closing of the Work. ~~Except for termination of RCC by Client for cause, RCC shall also receive a termination fee equal to 10 percent of the total compensation yet to be earned under existing authorized work at the time of termination.~~

XV. NOTICES

All notices required under this Agreement shall be by personal delivery, facsimile or mail to the RCC Manager and to the person signing the proposal on behalf of the Client, and shall be effective upon delivery to the addressed stated in the proposal.

XVI. HOLD HARMLESS

RCC's commitments as set forth in this Agreement are based on the expectation that all of the services described in this Agreement will be provided. In the event Client later elects to reduce Consultant's scope of services, Client hereby agrees to release, hold harmless, defend and indemnify RCC from any and all claims, damages, losses or costs associated with or arising out of such reduction in services.

RCC Initials _____

Client Initials _____

WAIVER OF DEFAULT

rights hereunder shall remain, in any way, reserves the parties right to modify or rescind this Agreement at any time or in any manner.

18. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

~~19. **Default.** Except as specifically provided for herein, a default by any Party~~
~~in an obligation set forth herein shall not result in, or be the~~
~~basis for, the termination or rescission of this Agreement.~~

20. **Assignment.** No rights or obligations under this Agreement shall be assigned without the prior written consent of the County.

21. *This Agreement shall be subject to the Attached Sheet of Sevier County
Standard Terms and Conditions.*

SIGNATURE BLOCK

SEVIER COUNTY, UTAH

Chair
Sevier County Commission

Date

INTERMOUNTAIN PUBLIC LAND CONSULTANT

CHOICE OF FORUM

11. Indemnification:

Purchaser hereby indemnifies and hold Artist, as well as Artist's agents, representatives, principals, employees, contractors, officers and directors ("Indemnitees"), harmless from and against any loss, damage, or expense, including reasonable attorney's fees incurred or suffered by or threatened against Artist or any of the Indemnitees in connection with or as a result of:

- (a) any act or failure to act by Purchaser, its employees, agents, representatives, contractors, officers and/or directors ("Purchaser Parties");
- (b) Purchaser's and/or Purchaser Parties' breach of any of the warranties and representations made by Purchaser hereunder or in any addendum or rider(s) attached hereto;
- (c) Purchaser's and/or Purchaser Parties' breach of any of the terms hereof and/or of any addendum and/or rider(s) attached hereto;
- (d) any claim for personal injury or property damage or other brought by or on behalf of any third party as a result of or in connection with the engagement, which claim does not result from the active and willful negligence of Artist.

12. Dispute Resolution:

This Agreement and all questions arising hereunder shall be governed by, and construed in accordance with, the laws and decisions of the State of Tennessee without giving effect to the principles thereof relating to conflicts of law. Each of the parties hereto (a) irrevocably agrees that the federal courts of Tennessee and Tennessee state courts shall have sole and exclusive jurisdiction over any suit or other proceeding arising out of or based upon this Agreement, (b) submits to the venue and jurisdiction of such courts and (c) irrevocably consents to personal jurisdiction by such courts.

13. Conflict of Laws:

Nothing in this Agreement shall require the commission of any act contrary to law or to any rules or regulations of any union, guild or similar body having jurisdiction over the services and personnel to be furnished by the Purchaser to Artist hereunder. If there is a conflict between any provision of this Agreement and any law, rule or regulation, such law, rule or regulation shall prevail and this Agreement shall be curtailed, modified and/or limited only to the extent necessary to eliminate such conflict. Artist agrees to comply with all regulations and requirements of any union(s) that may have jurisdiction over any of the said materials, facilities, and personnel to be furnished by Purchaser, of which Artist is advised by Purchaser, in writing, prior to arrival at the performance venue.

14. United Talent Agency, LLC as Agent:

It is agreed that United Talent Agency, LLC ("Agent") is not a party to the contract and acts herein only as the agent for Artist. As such, Agent is not responsible for any act of commission or omission on the part of either Purchaser or Artist. In furtherance thereof and for the benefit of Agent, it is agreed that neither Artist or Purchaser will name or join Agent as a party in any civil action or suit arising out of, in connection with, or related to any act(s) of commission or omission of Purchaser or Artist hereunder. If at any time there shall be a controversy between Purchaser and Artist with respect to the monies for the performance(s) covered hereunder which are held by Agent in its trust account ("Trust Funds"), Agent may upon notice to Purchaser and Artist either: (i) hold the Trust Funds until otherwise directed by a written instrument signed by Purchaser and Artist or by an order, decree or judgment by a court of competent jurisdiction which, by lapse or otherwise, shall no longer be or shall not be subject to appeal or review, or, (ii) deposit the Trust Funds in any court of competent jurisdiction pending the final determination of any dispute among the parties hereto. Upon delivery of the Trust Funds in accordance herewith, the obligations of the Agent shall cease with respect thereto and it shall not be required to perform any further acts whatsoever pursuant to this Agreement.

15. Assignment / Transfer :

This Agreement: (a) shall not be assigned or transferred without the written consent of both parties; (b) contains the sole and complete understanding of the parties hereto with respect to the subject matter hereof, and, (c) may not be amended, supplemented, varied or discharged, except by a written instrument, signed by both parties. The person executing this Agreement on Purchaser's behalf warrants his/her authority to do so. The terms, "Purchaser" and "Artist" as used herein shall include and apply to the singular, the plural and all genders.

16. Counterparts:

This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one single agreement between the parties. The parties agree that transmission to the other party of this Agreement with its facsimile signatures shall suffice to bind the party transmitting the same to this Agreement in the same manner as if an original signature had been delivered. Without limitation of the foregoing, each party who transmits this Agreement with its facsimile signature covenants to deliver the original thereof to the other party as soon as practicable thereafter.

17. Waiver:

No delay or omission by either party to exercise any right or power it has under this Agreement shall impair or be construed as a waiver of such right or power. A waiver by either party of any breach or covenant shall not be construed to be a waiver of any succeeding breach or any other covenant. All waivers must be in writing and signed by the party waiving its rights.

18. Confidentiality:

The terms of this Agreement, as well as correspondence and documentation related to this Agreement, are confidential to the parties and may not be disclosed to any third parties without the prior written consent of the parties hereto, except as disclosure may be required to professional advisors or by law or court order, or for carrying out the purposes of this Agreement. Further, the parties shall treat as confidential all information, data and documents acquired by each other relating to the business affairs of the other, except as such information may already be in the public domain. Notwithstanding anything to the contrary contained herein, if Artist is subject to a recording contract which mandates disclosure of show-and-touring-related information and documentation to the record label as part of that contract, then any disclosures made by Artist (or Artist's agent or representative) in compliance therewith (including, without limitation, this Agreement and documentation ancillary hereto), shall be permitted and shall not be deemed a breach of the confidentiality provision(s) hereof by Artist (or Artist's agent or representative).

19. Security and Insurance:

ANTICIPATED SAVINGS, WORK STOPPAGE, DATA LOSS, ECONOMIC DAMAGE, LOST PROFIT OR COMPUTER FAILURE WHICH MAY ARISE IN RESPECT OF THE SOFTWARE, THE HARDWARE ON WHICH IT IS INSTALLED OR IN RESPECT OF OTHER EQUIPMENT OR PROPERTY.

10.2 Except as expressly provided herein, the licensor shall not be liable to licensee for any loss or damage whatsoever or howsoever caused arising directly or indirectly in connection with this Agreement, the Software, the Installation Services, or the Maintenance Services or otherwise, except to the extent to which it is unlawful to exclude such liability under the applicable law.

10.3 Notwithstanding the generality of the provisions set out within this Article X, the Licensor expressly excludes liability for errors in any data information, reports, or results in any form that is produced by the Software.

10.4 Notwithstanding any other provision of this Agreement, the Licensor does not exclude liability for death or personal injury to the extent only that the same arises as a result of the negligence of the Licensor, its employees, agents, or authorized representatives.

10.5 In the event that any exclusion contained in this Agreement shall be held to be invalid or unenforceable for any reason and the licensor becomes liable for loss or damage that may lawfully be limited, such liability shall be limited to amount paid by licensee for the licensee.

Article XI - NON-COMPETITION

Licensee agrees that until the Maintenance Services Termination, and for a period of four (4) years thereafter, that it and its affiliates and subsidiaries will not engage, in the manufacture, supply, marketing, sale, or distribution of any software similar to the Software in any manner whatsoever.

Article XII - MISCELLANEOUS

12.1 Any notice required to be given pursuant to this Agreement shall be in writing, addressed to the parties at their addresses set forth above, and mailed by certified or registered mail, return receipt requested, or delivered by a national overnight express service. Either party may change the address to which notice is to be sent by written notice to the other party pursuant to the provisions of this paragraph.

12.2 This Agreement shall be governed by the laws of Utah, without regard to conflicts of law principles. All disputes hereunder shall be resolved in the applicable state or federal courts of Utah. The parties consent to the jurisdiction of such courts, agree to accept service of process by mail, and waive any jurisdictional or venue defenses otherwise available.

12.3 This Agreement shall be binding on and shall inure to the benefit of the parties hereto, and their heirs, administrators, successors, and assigns.

12.4 If any provision of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or operation of any other provision and such invalid provision shall be deemed to be severed from the Agreement. Failure or delay by either party in exercising any right or power hereunder shall not operate as a waiver of such right or power. Each party agrees it will perform its obligations hereunder in accordance with all applicable laws, rules and regulations now or

TRIAL BY JURY

CONFIDENTIAL

PERMITTED BY APPLICABLE LAW, ON BEHALF OF ITS AFFILIATES) ~~WAIVES ALL RIGHT TO TRIAL~~
~~BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED UPON~~
~~CONTRACT, TORT OR OTHERWISE) RELATED TO OR ARISING OUT OF THE ENGAGEMENT OF~~
~~BMOCM PURSUANT TO, OR THE PERFORMANCE BY BMOCM OF THE SERVICES~~
~~CONTEMPLATED BY, THIS LETTER AGREEMENT.~~ The invalidity or unenforceability of any provision of

this letter agreement shall not affect the validity or enforceability of any other provision of this letter
agreement, which shall remain in full force and effect pursuant to the terms hereof. *The Agreement is*

subject to the attached sheet of Sevier County Standard Terms and Conditions.
We are pleased to proceed with these engagements and look forward to working with the County. If the
foregoing is in accordance with your understanding, please indicate your agreement to the above terms
and conditions by signing the enclosed copy of this letter agreement and returning it to us.

Yours very truly,

BMO CAPITAL MARKETS GKST INC.

By:

Jeffrey D. Holt, Managing Director

INTERPRETATIO N

- e. If Attraction is called upon to perform in a movie, Purchaser agrees that Attraction may cancel engagement by giving Purchaser written notice of such cancellation postmarked not later than sixty (60) days prior to the commencement date of the engagement.
- f. PURCHASER shall not itself nor shall it permit others to record, broadcast, televise photograph or otherwise reproduce the visual and/or audio performance hereunder, or any part thereof.
- g. It is agreed that ATTRACTION signs this contract as an independent contractor and not as an employee. This contract shall not, in any way, be construed so as to create a partnership or any kind of joint undertaking or venture between the parties hereto, or make ATTRACTION liable in whole or in part of any obligation that may be incurred by PURCHASER in PURCHASER'S carrying out any of the provisions hereof or otherwise.
- h. Nothing in the Agreement shall require the commission of any act contrary to law or to any rules or regulations of any union, guild or similar body having jurisdiction over the services and personnel to be furnished by ATTRACTION to PURCHASER hereunder. If there is any conflict between any provision of the Agreement and any law, rule or regulation, such law, rule or regulation shall prevail and the Agreement shall be curtailed, modified, or limited only to the extent necessary to eliminate such conflict. PURCHASER agrees to comply with all regulations and requirements of any union(s) that may have jurisdiction over any of the said material, facilities and personnel to be furnished by PURCHASER.
- i. ~~In the event of any inconsistency between the provisions of this contract and the provisions of any riders, addenda, exhibits or any other attachments hereto, the parties agree that the provisions most favorable to ATTRACTION shall control.~~
- j. PURCHASER hereby agrees to indemnify and hold harmless ATTRACTION SUPPLIER and ATTRACTION, as well as their respective agents, representative, principals, employees, officers and directors, from and against any and all manner of claims,

ATTORNEY FEES



HORSEPOWER FLEET SERVICES in a rentable condition, or (b) inform HORSEPOWER FLEET SERVICES five (5) days prior to the proposed Early Termination date that the Customer wishes for HORSEPOWER FLEET SERVICES to pick up its Vehicle. Early termination of Master Rental Agreement must be approved in writing by HORSEPOWER FLEET SERVICES and customer agrees to pay 30% of the outstanding balance in full at time of termination.

16. Governing Law; Jurisdiction; Venue: This Master Agreement and all Supplemental Agreements and Extension Agreements shall be governed by and construed in accordance with the law of the State of Utah and jurisdiction and venue shall properly lie in the County Court in and for Utah County, 4

the Thirteenth Judicial Circuit Court of the State of Utah. *the prevailing party's*

17. Attorneys' Fees: ~~Customer~~ *Each party* agrees to pay for all of ~~HORSEPOWER FLEET SERVICES'~~ reasonable legal fees and costs, including, without limitation, disbursements, court costs, the cost of appellate and post judgment proceedings, the cost of bankruptcy proceedings, including, but not limited to filing and contesting a claim, and paralegal and law clerk fees, whether or not an action is brought, for the services of counsel employed to enforce any of the obligations contained in this Master Agreement or the corresponding Supplemental Agreements or Extension Agreements.

18. Severability of Provisions: If any provision of this Master Agreement or the Supplemental Agreement(s) or Extension Agreement(s), or the application of any such provision to any person or circumstance is held to be illegal, invalid, or unenforceable, the remainder of such agreement will not be affected by such finding, and in lieu of each provision that is illegal, invalid, or unenforceable a provision will be added as part of such agreement as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid and enforceable..

GUARANTEES

any part or interest, shall be enforceable as an original. This Master Agreement or corresponding Supplemental Agreement (s) or Extension Agreement(s) may be executed and enforced in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

GUARANTEE

In order to induce HORSEPOWER FLEET SERVICES, LLC, a Utah limited liability company, ("HORSEPOWER FLEET SERVICES") to enter into this Master Rental Agreement, between HORSEPOWER FLEET SERVICES and Customer named above, which shall include any and all amendments hereto and extensions hereof, and in consideration thereof, the undersigned unconditionally and irrevocably guarantees payment and performance by Customer, when due, of all obligations under this Master Agreement. In the event of default under this Master Agreement by Customer, the undersigned promises to pay the full amount of all obligations, damages and other sums which may be due HORSEPOWER FLEET SERVICES, together with all costs of collection, including attorneys fees and court costs, whether for primary appellate or bankruptcy proceedings. The guarantor will be benefited if HORSEPOWER FLEET SERVICES enters into the Master Agreement with Customer because the undersigned has an interest, directly or indirectly, in the transaction.

GUARANTOR:

I have read this Guarantee and agree to its terms.

(Signature)

CONFIDENTIALIT
Y

for any Client Website registered by or on behalf of Client (which such domain name(s) shall constitute Client Content hereunder), and Client shall be solely responsible for any applicable domain name registration fees (TNG may host domain name(s) on behalf of Client, but shall have no ownership rights or responsibilities with respect thereto); (8) TNG shall have no responsibility and shall be held harmless from liability for Client's failure to renew or maintain in good status Client's domain name(s); and (9) Client shall not be entitled to any credit against its Fees payable to TNG if any Client Website is unavailable due to any failure to maintain domain name(s) in good standing.

8. CONFIDENTIALITY

- (a) During the Term of this Agreement and for a period of three (3) years thereafter, each party (the "Receiving Party") shall retain in confidence the ~~business information~~ ^{Confidential Information} confidential or proprietary information, technology, materials and know-how of the other party disclosed to or acquired by the Receiving Party pursuant to or in connection with this Agreement that either is designated as confidential and/or proprietary or that reasonably should be understood to be confidential and/or proprietary given the nature of the information and/or the circumstances surrounding its disclosure ("Confidential Information"). (Without limiting the generality of the foregoing, Client expressly acknowledges and agrees that the TNG Proprietary Materials constitute TNG's Confidential Information includes.) In connection with the foregoing, (i) neither party shall use any Confidential Information with respect to which it is the Receiving Party for any purpose other than to carry out the activities permitted or contemplated hereunder (including, provision or use of the Ordered Products/Services, as applicable), or to exercise or enforce its rights under this Agreement; (ii) each Receiving Party shall use commercially reasonable efforts to protect the Confidential Information of the other party against any unauthorized use or disclosure, and in any event shall take precautions at least commensurate with those taken to protect its own Confidential Information of a similar nature; and (iii) each Receiving Party shall notify the other party promptly in writing in the event such party learns of any unauthorized use or disclosure of any Confidential Information that it has received from such other party, and will cooperate in good faith to remedy such occurrence to the extent reasonably possible. The restrictions set forth in this Section 8 shall not apply to any information that: (A) was known by the Receiving Party without obligation of confidentiality prior to disclosure thereof by the other party; (B) was in or entered the public domain through no fault of the Receiving Party; (C) is disclosed to the Receiving Party by a third party legally entitled to make such disclosure without violation of any obligation of confidentiality; or (D) is independently developed by the Receiving Party without use of or reference to any Confidential Information of the other party.

ABSENT BOILERPLATE

11. Unless otherwise specifically noted herein, Sponsor agrees to furnish at Sponsor's own expense suitable covered staging, stage lights, sound equipment with operator, unlimited water and soda during set up and performance, plus electricity and parking.

12. If engagement is not presented due to circumstances not under the control of Artist(s), including but not limited to Sponsor canceling or postponing event, bad weather, rain, snow, high winds, or any other reason, and Artist is ready and willing to perform, Artist(s) is to be paid in full.

13. Al Lampkin assumes no liability in connection with this engagement or liabilities caused by failure of Artist(s) to appear or perform except, however, should Artist(s) fail to appear for any reason other than Sponsor canceling event, Al Lampkin agrees to return to Sponsor any deposit paid to Al Lampkin, otherwise, deposit is non-refundable.

14. This instrument constitutes the entire agreement between both parties, and no statement, promise or inducement made by any party hereto which is not contained herein shall be binding or valid, and this agreement may not be enlarged, modified or altered, except in writing by both parties hereto.

15. Any controversy arising between the Sponsor and Al Lampkin pertaining to this agreement shall be referred to the proper authorities in the State wherein the engagement is to be performed.

16. *This Agreement is subject to the attached sheet of Sevier County Standard Terms and Conditions.*

THANK YOU! WE APPRECIATE YOUR BUSINESS

X	
Sponsor's Signature & Date	Al Lampkin
Street Address	Date sent to Sponsor: emailed 5/5/16
Richfield, UT	
City/State/Zip	Please sign & return copy with deposit within 5 days.
435/893-0457	
Phone number	
seviertravel@gmail.com	
Fax number or e-mail address	Thank you! Dept. Head: _____